THE BAR ASSOCIATION BULLETIN

MONTHLY PUBLICATION OF THE

LOS ANGELES BAR ASSOCIATION, Los Angeles, California

Vol. 1. No. 5 FEBRUARY, 1926 10c a Copy; $1.00 a Year

SUMMARY PROCEDURE IN MUNICIPAL COURT PRACTICE

Under the provisions recently enacted (C. C. P. 831-E, 831-F, 831-G), Civil Procedure in the new Municipal Court will follow that prescribed by law for the Superior Court except:

(1) Time to answer summons is shortened;

(2) Findings are eliminated in matters involving $300 or less, and in all cases unless demand therefore is made;

(3) As to matters not exceeding $300., in lieu of demurrer or other answer ,a general written denial verified by defendant's oath is enabled;

(4) A summary procedure is provided, designed to immediately dispose of sham actions and sham defenses, and in other cases, to expeditiously reduce the issues to those actually in controversy.

It is to the provision last mentioned that this memorandum is addressed, with the knowledge that the procedure prescribed (C. C. P. 831-F, subd. 3) may at first glance suggest some difficulties but in the belief that thoughtful consideration will remove them.

The new Municipal Court will have not only all the former Justices' Court and Police Court work within the city, but a large percentage of the civil actions now tried in the Superior Court. Except for the fact that the Superior Court has concurrent jurisdiction with the Municipal Court as to matters at law involving over $300, the Municipal Court would have about half in number of all the civil actions that heretofore have come to the Superior Court. To apply the Superior Court practice without any modification would retard rather than expedite the disposition of those cases heretofore tried in the Justices Court, under Justice Court procedure. Not to have provided or not to steadfastly apply some simplification of procedure would defeat the fundamental reason for the establishment of a Municipal Court; namely, to enable small controversies to be disposed of promptly, at minimum cost, with more regard to the substance of the controversy and less to forms of law.

As indicative of the need of a summary procedure to dispose of litigation that ought never to come to court, in 1921 in the Superior Court for Los Angeles County 8,748 civil actions were commenced where money relief was sought, exclusive of divorce, probate, juvenile, Torrens Title cases and the cases disposed of summarily by the presiding judge and in law and motion department. The amounts involved in these 8,748 cases are as follows:

Less than $500
2,290 or 32 per cent
Between $500 and $1000
1,677 or 22 per cent
Over $1000. 3,616 or 46 per cent

Of all of these, 2,917 or 33 per cent had been dismissed without trial by the beginning of 1923. It is safe to say, based upon the writer's own experience and conversations with many judges holding court in Los Angeles County, that of the remaining 67 per cent of these cases, many of which were dismissed after the beginning of the year 1923, without trial, fully 1-3 were groundless either as to cause of action or defense and would have been quickly disposed of by a summary proceeding such as that now provided for the Municipal Court.

The Summary procedure section (C. C. P. 831-F, subd. 3), in brief, enables either party, or the court of its own motion, to have all parties cited for summary proceedings. Thereat each party must appear personally or by some one having knowledge of the facts, and with or without counsel as he may desire. If the party is an assignee the original assignor must be cited. Each party, in such order as the court may determine, must personally, or by his substitute, state the facts upon which his cause of action or defense is based. If neither party, nor any other vailable person, has knowledge of the facts, then, upon clear showing thereof, the party may state the facts by his attorney, in which case the other party may do the same. All statements must be taken down by a shorthand reporter. If from the statements made it appears, without substantial co troversy as to facts, that any party is entitled to a judgment against another, such judgment shall be entered forthwith. If, although such judgment cannot be entered because there are some

(Continued on page 23)

ANNUAL MEETING AND DINNER

Alexandria Hotel—Thursday, February 25th, 6 P. M.

Report of Annual Election and Installation of New Officers

Interesting and Instructive Address by

Delphin M. Delmas : The Scopes Trial and The Constitution

EVERY MEMBER IS URGED TO BE PRESENT

THE BAR ASSOCIATION BULLETIN
Published Monthly in the City of Los Angeles, California By THE LOS ANGELES BAR ASSOCIATION

Entered as second class matter August 28, 1925, at the post office at Los Angeles, Calif., under the Act of March 3, 1879.

CHAS. L. NICHOLS .....Editor
1215 Citizens National Bank Bldg.
Telephone: TRinity 9291

Published by the Courtesy of THE LOS ANGELES DAILY JOURNAL

Heretofore, the Bulletin has been published through the courtesy of The Daily Journal, with the incidental expense borne by the Association.

Somewhat proud of our success, we cherish financial independence; so, with the issue of March 15th, we intend to launch out upon a commercial basis.

The Bulletin will be reduced in size to 9x12 inches, and will be published twice a month as near the 1st and 15th as practicable. We shall accept a limited number of advertisements to provide funds for the payment of all expenses.

For any one whose business is related directly or indirectly to the legal profession, the Bulletin will prove the most effective advertising medium available. Every member of the Association is a paid subscriber to the Bulletin and every member will appreciate the cooperation of our advertisers in making possible the publication on a self-supporting basis.

The prices for space will compare favorably with other similar publications, special terms being made for long contracts. The amount of advertising space will be limited to ten or twelve pages. For further particulars, communicate with the Editor.

THE MUNICIPAL COURT

On Monday, February 1st, the new Municipal Court for the City of Los Angeles began its official functions. A modest, yet impressive ceremony marked the event and inaugurated what we trust will prove a useful career for our newest judicial tribunal. Pres. Mott spoke on behalf of the Bar Association and pledged the support and cooperation of our members to the achievement of its purpose.

The Association early perceived in the adoption of a Municipal Court in our city an opportunity for constructive service to the community. That the rights of litigants have been seriously impaired through the conjested condition of our courts is a fact too familiar to all of us to require discussion. And for the moment we are more vitally concerned with the effect than the cause of this condition.

Resolute in its determination to better affairs, the Association spared neither time nor money in its fight for the success of the legislative enactment and the subsequent adoption of the court here. Considerable research was done to investigate similar laws of other municipalities and to ascertain the experience of other cities in dealing with the problem. Representatives were sent to appear before various legislative committees to explain and enlighten. And finally the expense of litigation was borne to test the constitutionality of the legislative provisions. A splendid public service! Naturally and arightly, the Association feels a parental interest in this tribunal.

Elsewhere in this issue appears an excellent discussion of the mechanical operation of the Court and the extent to which it is believed and hoped its adoption will relieve the congestion of our trial calendars and facilitate the course of litigation. But a moments reflection prompts the observation that the practical success of this undertaking depends almost entirely upon the attitude of the bar. A spirit of cooperation will insure satisfactory results; indifference and lack of cooperation will defeat the whole purpose.

The original jurisdiction of the Municipal Court is concurrent with the Superior Court as to matters of law involving more than three hundred dollars. As pointed out by Judge Wood in the article above referred to, if it were not for the fact of this concurrent jurisdiction, the Municipal Court would try approximately one-half of the cases heretofore brought in the Superior Court. Obviously, if the number of cases in the Superior Court is reduced by one-half, the present congestion will be gradually relieved and this court will be free to devote its time to the more important cases and to try them without unreasonable delay.

Herein lies an opportunity for cooperation on the part of the bar. The plaintiff, the moving party, selects the forum. If his suit is brought in good faith, he will be anxious for quick determination of his rights. On the other hand, if the purpose of his suit is to vex, annoy and embarrass, he will desire delay and technically. The Municipal Court is adequately equipped to handle cases within its jurisdiction and it appears to us that a duty is imposed upon the bar to help achieve its purpose and help to clear up the calendar of the higher court.

Moreover, the summary procedure provided by Section 831f., sub-section (3) of the Code of Civil Procedure is designed primarily to further facilitate and expedite proceedings in the Municipal Court and to obviate purely formal contentions which entail delay at the sacrifice of substantial rights. With proper cooperation on the part of the bar, the Municipal Court can keep abrest our needs.

So, in this instance, the Bar Association has done well to advance the science of jurisprudence and to promote the administration of justice. Surely the bar will meet its duty with a like endeavor.

(Continued from page 21)

controvertible facts, there is no substantial conflict as to some of the facts, the court shall make findings as to them and set the cause for trial as to the remaining issues.

Categorically, the sub-section for summary proceedings operates thus:

1. It enables judgment at once for the plaintiff if there is no defense, or for the defendant if there is no substantial merit to the plaintiff's case, thus preventing present delay, because all actions must now be set for trial in ordinary course, whether meritorious or not.

2. It enables irrelevant matters to be eliminated, and immediate findings to be made as to all issues as to which there is no substantial controversy, thus making it unnecessary to call witnesses upon all issues controverted in the pleadings.

3. It forces an immediate showdown and disclosure by both sides of the facts claimed by each.

4. It will discourage the commencement of groundles and vexatious actions and the interposition of defenses for purpose of delay.

5. It will tend to develop, at an early stage of the proceedings, mistakes of fact or law upon which one or both parties would otherwise proceed until final trial, probably one or two years later.

6. Where the form of action is correct upon the fact of the pleadings but wrong under the actual facts, it will bring out and correct such mistakes so that final trial and judgment may be on the merits and the controversy and the litigant not be wrecked on the rocks of some procedural error.

7. It will encourage compromise, even where there is a controversy, by early bringing the parties together under impartial auspices.

To answer objections that will come at first blush to the mind of lawyers it may be well to state what the provision of summary procedure does not do:

1. It does not multiply proceedings. Rather should it greatly reduce the number of trials as now provided, and this at small cost.

2. The proceeding is not a mere preliminary trial. Such findings as are made will finally determine in the trial court the issues covered by them unless the court for good cause, upon notice, set them aside. As to other matters the court will proceed only far enough to assertain that there is as to them a susbstantial controversy of fact. The determination of such matters must then go over to trial. However, each party must state his case. There is this incidental advantage; if upon the statements of the parties it appears that the evidence to be taken would be restricted and brief, the cause can be set for early hearing upon a short cause calendar provided, or, if there be time and the parties agreed, heard immediately.

3. No one can be prejudiced:

(a) Judgement concluding all the ssues, or findings upon some of hem, can be made only if there is o "substantial conflict as to facts." 'his is the rule for the granting of a nonsuit or of a directed verdict. **(Jacobson v. Northwestern Pacific Railroad Co.,** 175 Cal. 468; **Estate of Baldwin,** 162 Cal. 478; **Estate of Sharon** 179 Cal. 447; **Perera v. Pacific etc Co.,** 179 Cal. 63). In practice the finding when made will be based practically upon admissions of the parties. Whenever one **in open court under oath** affirms and the other **in open court under oath denies** a fact, the detremination of which is necessary to the judgment or findings, the court cannot render judgment or make the finding but must set the cause regularly for trail with or without a jury as now provided:

(b) No constitutional right to trial by jury is invaded any more than it is by the granting of a nonsuit or the direction of a verdict or by the applicaiton of the New York and Massachusetts rules by which judgments may be rendered against a defendant for lack of a proper affidavit showing, in addition to denials, facts constituting a good defense. **(Estate of Sharon,** supra; **Perera v. Panama etc. Co.,** supra; **General Investment Co. v. Interborough Rapid Transit Co.,** 235 N. Y. 133; **Hunt et al v. Lucas,** 99 Mass. 404).

(c) No one can be forclosed for lack of knowlege of facts. The party may state the facts personally, or by some other person who knows the facts. If neither he nor another person available knows them, counsel may state the facts as the party claims them. He must, however, disclose them, if he or his counsel have knowledge of what they are. Cases will be rare where an action in the absence of such knowledge. is commenced or defense interposed

(d) If findings are made at the summary proceeding based upon inadvertence or misunderstanding of the facts, then upon showing made the findings may be set aside by the court;

(e) The right of appeal remains as otherwise provided in the bill.

4. The proceedings will not be unduly expensive for the parties because of the requirement that the statements of the summary proceeding shall be taken by a reporter. The testimony need not be written up unless a party desire it, in which case he in usual practice would pay for it. Doubtless special department or departments will be provided for summary proceedings. Through this many causes will pass each day. The reporter's costs per case will therefore be slight.

5. The proceedings cannot be made a mere fishing excursion by one party. The court can prevent this through the power expressly given for the purpose, "to regulate the order of making the statements as justice requires."

It will be observed that the California provisions for summary procedure are designed to make use of certain advantages of the English and Canadian practice, the practice under rules of the New York Supreme Court and of the Chicago Municipal Court and under a statute in Massachusetts. The action, however, is more direct than under the English practice and is broader than under the practice in New York, Chicago, and Massachusetts, for here the proceeding may be applied against a groundless action as well, as against a sham defense, whereas in the jurisdictions mentioned it reaches only the latter.

Some might criticise the section for failure to more carefully and fully define and limit the practice and powers of the court under it. That is precisely what the drafters sought to avoid. It was thought best not too closely to circumscribe the court by meticulous directions but to leave flexibility and room for a wise judicial development of a useful and reformative practice. It is hoped that a diligent and conscientious use of the proceeding by the judges and by the bar will go far toward eliminating in the Municipal Court the injustice of delay now so often worked by a causeless action or a groundless defense.

JOHN PERRY WOOD.

GRATIFYING RESPONSE

President Mott recently addressed a letter to every member of the Association in which he stated:

"The American Legion, through the chairman of its Veterans Bureau Committee, has asked the assistance of the Los Angeles Bar Association in the matter of securing the necessary legal services in guardianship cases affecting ex-service men and women. Ex-service men and women and minor dependents of deceased and missing ex-service men and women cannot draw the sums due them from the Government until the necessary guardians to receive these funds have been appointed. The various agencies such as the Red Cross and American Legion attempt to furnish guardians in these cases but neither the United States Government nor any of these agencies furnish the legal services necessary to have the guardians appointed and to assist in the renuering of the guardians' accounts.

"A few attorneys, moved by a patriotic desire to help in these cases, have attempted to handle the great number of them. The number of these matters has grown so rapidly in Los Angeles County that great delay has been occasioned and real hardship and privation have resulted to some of these incompetents and minors. There are no more deserving cases in the jurisdiction of the United States Veterans Bureau than these particular incompetents and minors whose sole source of support is in many instances the sums they receive from the Government. The Legion is anxious to secure a large enough list of attorneys who will undertake to do this work, so there will be no delay in handling the cases and so that the work will not fall too heavily upon any group of attorneys."

The response to this call has been most gratifying. To date a total of three hundred and thirty-six members gladly offered their services in this laudable work. The officers and trustees of the Association take this opportunity to express their appreciation for the prompt replies.

THE BAR ASSOCIATION BULLETIN
Published Monthly in the City of Los Angeles, California By THE LOS ANGELES BAR ASSOCIATION

Entered as second class matter August 28, 1925, at the post office at Los Angeles, Calif., under the Act of March 3, 1879.

CHAS. L. NICHOLS .....Editor
1215 Citizens National Bank Bldg.
Telephone: TRinity 9291

Published by the Courtesy of THE LOS ANGELES DAILY JOURNAL

Heretofore, the Bulletin has been published through the courtesy of The Daily Journal, with the incidental expense borne by the Association.

Somewhat proud of our success, we cherish financial independence; so, with the issue of March 15th, we intend to launch out upon a commercial basis.

The Bulletin will be reduced in size to 9x12 inches, and will be published twice a month as near the 1st and 15th as practicable. We shall accept a limited number of advertisements to provide funds for the payment of all expenses.

For any one whose business is related directly or indirectly to the legal profession, the Bulletin will prove the most effective advertising medium available. Every member of the Association is a paid subscriber to the Bulletin and every member will appreciate the cooperation of our advertisers in making possible the publication on a self-supporting basis.

The prices for space will compare favorably with other similar publications, special terms being made for long contracts. The amount of advertising space will be limited to ten or twelve pages. For further particulars, communicate with the Editor.

THE MUNICIPAL COURT

On Monday, February 1st, the new Municipal Court for the City of Los Angeles began its official functions. A modest, yet impressive ceremony marked the event and inaugurated what we trust will prove a useful career for our newest judicial tribunal. Pres. Mott spoke on behalf of the Bar Association and pledged the support and cooperation of our members to the achievement of its purpose.

The Association early perceived in the adoption of a Municipal Court in our city an opportunity for constructive service to the community. That the rights of litigants have been seriously impaired through the conjested condition of our courts is a fact too familiar to all of us to require discussion. And for the moment we are more vitally concerned with the effect than the cause of this condition.

Resolute in its determination to better affairs, the Association spared neither time nor money in its fight for the success of the legislative enactment and the subsequent adoption of the court here. Considerable research was done to investigate similar laws of other municipalities and to ascertain the experience of other cities in dealing with the problem. Representatives were sent to appear before various legislative committees to explain and enlighten. And finally the expense of litigation was borne to test the constitutionality of the legislative provisions. A splendid public service! Naturally and arightly, the Association feels a parental interest in this tribunal.

Elsewhere in this issue appears an excellent discussion of the mechanical operation of the Court and the extent to which it is believed and hoped its adoption will relieve the congestion of our trial calendars and facilitate the course of litigation. But a moments reflection prompts the observation that the practical success of this undertaking depends almost entirely upon the attitude of the bar. A spirit of cooperation will insure satisfactory results; indifference and lack of cooperation will defeat the whole purpose.

The original jurisdiction of the Municipal Court is concurrent with the Superior Court as to matters of law involving more than three hundred dollars. As pointed out by Judge Wood in the article above referred to, if it were not for the fact of this concurrent jurisdiction, the Municipal Court would try approximately one-half of the cases heretofore brought in the Superior Court. Obviously, if the number of cases in the Superior Court is reduced by one-half, the present congestion will be gradually relieved and this court will be free to devote its time to the more important cases and to try them without unreasonable delay.

Herein lies an opportunity for cooperation on the part of the bar. The plaintiff, the moving party, selects the forum. If his suit is brought in good faith, he will be anxious for quick determination of his rights. On the other hand, if the purpose of his suit is to vex, annoy and embarrass, he will desire delay and technically. The Municipal Court is adequately equipped to handle cases within its jurisdiction and it appears to us that a duty is imposed upon the bar to help achieve its purpose and help to clear up the calendar of the higher court.

Moreover, the summary procedure provided by Section 831f., sub-section (3) of the Code of Civil Procedure is designed primarily to further facilitate and expedite proceedings in the Municipal Court and to obviate purely formal contentions which entail delay at the sacrifice of substantial rights. With proper cooperation on the part of the bar, the Municipal Court can keep abrest our needs.

So, in this instance, the Bar Association has done well to advance the science of jurisprudence and to promote the administration of justice. Surely the bar will meet its duty with a like endeavor.

(Continued from page 21)

controvertible facts, there is no substantial conflict as to some of the facts, the court shall make findings as to them and set the cause for trial as to the remaining issues.

Categorically, the sub-section for summary proceedings operates thus:

1. It enables judgment at once for the plaintiff if there is no defense, or for the defendant if there is no substantial merit to the plaintiff's case, thus preventing present delay, because all actions must now be set for trial in ordinary course, whether meritorious or not.

2. It enables irrelevant matters to be eliminated, and immediate findings to be made as to all issues as to which there is no substantial controversy, thus making it unnecessary to call witnesses upon all issues controverted in the pleadings.

3. It forces an immediate showdown and disclosure by both sides of the facts claimed by each.

4. It will discourage the commencement of groundles and vexatious actions and the interposition of defenses for purpose of delay.

5. It will tend to develop, at an early stage of the proceedings, mistakes of fact or law upon which one or both parties would otherwise proceed until final trial, probably one or two years later.

6. Where the form of action is correct upon the fact of the pleadings but wrong under the actual facts, it will bring out and correct such mistakes so that final trial and judgment may be on the merits and the controversy and the litigant not be wrecked on the rocks of some procedural error.

7. It will encourage compromise, even where there is a controversy, by early bringing the parties together under impartial auspices.

To answer objections that will come at first blush to the mind of lawyers it may be well to state what the provision of summary procedure does not do:

1. It does not multiply proceedings. Rather should it greatly reduce the number of trials as now provided, and this at small cost.

2. The proceeding is not a mere preliminary trial. Such findings as are made will finally determine in the trial court the issues covered by them unless the court for good cause, upon notice, set them aside. As to other matters the court will proceed only far enough to assertain that there is as to them a susbstantial controversy of fact. The determination of such matters must then go over to trial. However, each party must state his case. There is this incidental advantage; if upon the statements of the parties it appears that the evidence to be taken would be restricted and brief, the cause can be set for early hearing upon a short cause calendar provided, or, if there be time and the parties agreed, heard immediately.

3. No one can be prejudiced:

(a) Judgement concluding all the issues, or findings upon some of them, can be made only if there is no "substantial conflict as to facts." This is the rule for the granting of a nonsuit or of a directed verdict. **(Jacobson v. Northwestern Pacific Railroad Co.,** 175 Cal. 468; **Estate of Baldwin,** 162 Cal. 478; **Estate of Sharon** 179 Cal. 447; **Perera v. Pacific etc Co.,** 179 Cal. 63). In practice the finding when made will be based practically upon admissions of the parties. Whenever one **in open court under oath** affirms and the other **in open court under oath denies** a fact, the detremination of which is necessary to the judgment or findings, the court cannot render judgment or make the finding but must set the cause regularly for trail with or without a jury as now provided:

(b) No constitutional right to trial by jury is invaded any more than it is by the granting of a nonsuit or the direction of a verdict or by the applicaiton of the New York and Massachusetts rules by which judgments may be rendered against a defendant for lack of a proper affidavit showing, in addition to denials, facts constituting a good defense. **(Estate of Sharon,** supra; **Perera v. Panama etc. Co.,** supra; **General Investment Co. v. Interborough Rapid Transit Co.,** 235 N. Y. 133; **Hunt et al v. Lucas,** 99 Mass. 404).

(c) No one can be forclosed for lack of knowlege of facts. The party may state the facts personally, or by some other person who knows the facts. If neither he nor another person available knows them, counsel may state the facts as the party claims them. He must, however, disclose them, if he or his counsel have knowledge of what they are. Cases will be rare where an action in the absence of such knowledge. is commenced or defense interposed

(d) If findings are made at the summary proceeding based upon inadvertence or misunderstanding of the facts, then upon showing made the findings may be set aside by the court;

(e) The right of appeal remains as otherwise provided in the bill.

4. The proceedings will not be unduly expensive for the parties because of the requirement that the statements of the summary proceeding shall be taken by a reporter. The testimony need not be written up unless a party desire it, in which case he in usual practice would pay for it. Doubtless special department or departments will be provided for summary proceedings. Through this many causes will pass each day. The reporter's costs per case will therefore be slight.

5. The proceedings cannot be made a mere fishing excursion by one party. The court can prevent this through the power expressly given for the purpose, "to regulate the order of making the statements as justice requires."

It will be observed that the California provisions for summary procedure are designed to make use of certain advantages of the English and Canadian practice, the practice under rules of the New York Supreme Court and of the Chicago Municipal Court and under a statute in Massachusetts. The action, however, is more direct than under the English practice and is broader than under the practice in New York, Chicago, and Massachusetts, for here the proceeding may be applied against a groundless action as well, as against a sham defense, whereas in the jurisdictions mentioned it reaches only the latter.

Some might criticise the section for failure to more carefully and fully define and limit the practice and powers of the court under it. That is precisely what the drafters sought to avoid. It was thought best not too closely to circumscribe the court by meticulous directions but to leave flexibility and room for a wise judicial development of a useful and reformative practice. It is hoped that a diligent and conscientious use of the proceeding by the judges and by the bar will go far toward eliminating in the Municipal Court the injustice of delay now so often worked by a causeless action or a groundless defense.

JOHN PERRY WOOD.

GRATIFYING RESPONSE

President Mott recently addressed a letter to every member of the Association in which he stated:

"The American Legion, through the chairman of its Veterans Bureau Committee, has asked the assistance of the Los Angeles Bar Association in the matter of securing the necessary legal services in guardianship cases affecting ex-service men and women. Ex-service men and women and minor dependents of deceased and missing ex-service men and women cannot draw the sums due them from the Government until the necessary guardians to receive these funds have been appointed. The various agencies such as the Red Cross and American Legion attempt to furnish guardians in these cases but neither the United States Government nor any of these agencies furnish the legal services necessary to have the guardians appointed and to assist in the renuering of the guardians' accounts.

"A few attorneys, moved by a patriotic desire to help in these cases, have attempted to handle the great number of them. The number of these matters has grown so rapidly in Los Angeles County that great delay has been occasioned and real hardship and privation have resulted to some of these incompetents and minors. There are no more deserving cases in the jurisdiction of the United States Veterans Bureau than these particular incompetents and minors whose sole source of support is in many instances the sums they receive from the Government. The Legion is anxious to secure a large enough list of attorneys who will undertake to do this work, so there will be no delay in handling the cases and so that the work will not fall too heavily upon any group of attorneys."

The response to this call has been most gratifying. To date a total of three hundred and thirty-six members gladly offered their services in this laudable work. The officers and trustees of the Association take this opportunity to express their appreciation for the prompt replies.

CANONS OF ETHICS OF THE LOS ANGELES BAR ASSOCIATION ADOPTED MAY 2ND, 1917. (CONTINUED)

12. Fixing the Amount of the Fee. In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers and of their widows and orphans without ample means, should receive special and kindly consideration.

In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other business while employed in the particular case, or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

13. Contingent Fees.—Contingent Fees, where sanctioned by law, should be under the supervision of the Court, in order that clients may be protected from unjust charges.

14. Suing a Client for a Fee.—Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

15. How Far a Lawyer May Go in Supporting a Client's Cause.—Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belong to the proper discharge of its duties, than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of judicial disfavor or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicane. He must obey his own conscience and not that of his client.

16. Restraining Clients From Improprieties.—A lawyer should use his best efforts to restrain and to prevent his clients from doing those things which the lawyer himself ought not to do, particularly with reference to their conduct towards Courts, judicial officers, jurors, witnesses and suitors. If a client persists in such wrongdoing the lawyer should terminate their relation.

17. Ill-Feeling and Personalities Between Advocates.—Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

18. Treatment of Witnesses and Litigants.—A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence of prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

19. Appearance of a Lawyer as Witness for His Client.—When a lawyer is witness for his client, except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in Court in behalf of his client.

20. Newspaper Discussion of Pending Litigation. — Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the Courts and otherwise prejudice the due administration of justice. Generally, they are to be condemned. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An ex parte reference to the facts should not go beyond quotation from the records and papers on file in the Court; but even in extreme cases it is better to avoid any ex parte statement.

21.—Punctuality and Expedition.—It is the duty of the lawyer, not only to his client, but also the Courts and to the public, to be punctual in attendance and to be concise and direct in the trial and disposition of causes.

22. Candor and Fairness.—The conduct of the lawyer before the Court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, or the language of a decision or a textbook; or with knowledge of its invalidity, to cite as authority a decision that has been overruled, or a statute that has been repealed; or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.